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THE POLITICAL THEORY OF THE DISRUPTION[1]

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I

"Of political principles," says a distinguished authority,[2] "whether they be those of order or of freedom, we must seek in religious and quasi-theological writings for the highest and most notable expressions." No one, in truth, will deny the accuracy of this claim for those ages before the Reformation transferred the centre of political authority from church to state. What is too rarely realised is the modernism of those writings in all save form. Just as the medieval state had to fight hard for relief from ecclesiastical trammels, so does its modern exclusiveness throw the burden of a kindred struggle upon its erstwhile rival. The church, intelligibly enough, is compelled to seek the protection of its liberties lest it become no more than the religious department of an otherwise secular society. The main problem, in fact, for the political theorist is still that which lies at the root of medieval conflict. What is the definition of sovereignty? Shall the nature and personality of those groups

[1] No adequate history of the secession of 1843 has yet been written. What exists is for the most part pietistic in form and content. Perhaps the least unsatisfactory work is that of R. Buchanan: *The Ten Years' Conflict*, Edinburgh, 1850. The Rev. W. Hanna's *Life of Chalmers*, Vol. IV, will be found to contain much material of value, though naturally of a biased and edifying kind.

[2] J. N. Figgis: *From Gerson to Grotius*, p. 6.

of which the state is so formidably one be regarded as in its gift to define? Can the state tolerate alongside itself churches which avow themselves *societates perfectae*, claiming exemption from its jurisdiction even when, as often enough, they traverse the field over which it ploughs? Is the state but one of many, or are those many but parts of itself, the one?

There has been no final answer to these questions: it is possible that there is no final answer. Yet the study of the problems they raise gives birth to certain thoughts which mold in vital fashion our theory of the state. They are old enough thoughts, have, indeed, not seldom been deemed dead and past praying for; yet, so one may urge, they speak with living tongues. At certain great crises in the history of the nineteenth century they have thundered with all the proud vigor of youth. A student of modern Ultramontanism will not fail to find its basis in the stirring phrases of an eleventh century pope; just as he will find set out the opposition to it in the stern words of a fifteenth century chancellor of Paris University. Strikingly medieval, too, is the political theory no less of the Oxford movement than of that Kulturkampf which sent a German prince a second time to Canossa. And in a piece of Scottish ecclesiastical history the familiar tones may without difficulty be detected.

II

On the eighteenth of May, 1843, Dr. Welsh, the moderator of the general assembly of the Established Church of Scotland took a course unique in the history of his office. He made no formal address. Instead, there came the announcement that as a protest against an illegal usurpation of the rights of the church, and in order to preserve that freedom of action essential to the assembly, two hundred and three of its members were compelled to sever their connexion with it.[3] With a large number of lay and clerical followers he then withdrew to a hall that had been prepared nearby. Prayer was offered up; the moderatorship of the seceding members was offered to and accepted by Dr. Chal-

[3] Buchanan, II, 594.

mers; and the assembly then proceeded to constitute itself the governing body of the Free Church of Scotland.[4]

To the adequate understanding of this striking event some brief survey of early Scottish ecclesiastical history from the time of Knox's invasion is necessary. Recognized as the State Church in 1567[5] from the first a conflict of authority arose. The first general assembly had approved the Book of Discipline of the church, but the council, from the outset, was unwilling to sanction it.[6] As a result, the general assembly proceeded to act as though this approval, having reference to an ecclesiastical matter, was unnecessary. The book was made an essential part of the church's doctrinal constitution; and from the first the conception of a *societas perfecta* was of decisive importance.[7] On the threshold, therefore, of ecclesiastical history in Reformation Scotland a problem arises. For while the state never accorded the desired recognition, it is at least equally clear that the church was in no wise dismayed by that refusal. Jurisdiction, indeed, was awarded to it by the state in the same year;[8] but in terms ominous of future discord. To "declaration" no objection could be raised; but the insertion of a power to "grant" clearly cut away the ground from under the feet of Knox's contention that the power of jurisdiction was inherent without parliamentry enactment.[9] Yet, in a sense, the church's desire for the recognition of its complete spiritual powers may be said to have received its fulfilment in 1592, when it was declared that an act of supremacy over estates spiritual and temporal[10] "shall nowise be prejudicial nor derogate anything to the privilege that God has given to the spiritual office-bearers in the Kirk, concerning the heads of religion . . . . or any suchlike censures

[4] Buchanan, II, 607.

[5] Calderwood, II, 388–389. Innes: *Law of Creeds in Scotland.* I cannot too fully acknowledge my debt to this admirable book.

[6] Innes, op. cit., p. 20.

[7] As is apparent in Melville's famous sermon before James I. Cf. Innes, p. 21.

[8] Acts of Parliament of Scotland, III, 24.

[9] Knox: *History of Reformation,* p. 257, and cf. McCrie: *History of the Scottish Church,* p. 44.

[10] 1584, c. 129. The so-called Black Acts, Calderwood, IV, 62–73.

specially grounded and having warrant of the word of God."[11] Here, at any rate, was the clear admission that in the ecclesiastical sphere the church possessed powers no less than divine; and it may not unjustly be assumed that when the state affixed civil punishment to ecclesiastical censure, it stamped those powers with its approval.[12]

What pain the church had to endure in the next century of its history it lies outside our province to discuss; for our purpose the next halting place is its relation to the Revolution settlement. An act of 1669 had asserted the royal supremacy over the church;[13] this was rescinded,[14] and another statute, passed simultaneously, adopted the Westminster Confession as part of the law.[15] At the same time the abuse of lay patronage complained of from the outset—was abolished, and the right of ministerial appointment was practically vested in the full congregation.[16]

Clearly, there was much of gain in this settlement, though about its nature there has been strenuous debate. To Lord President Hope, for instance, the act of 1690 was the imposition of doctrine on the church by the state, and so the recognition of the latter's supremacy.[17] But it is surely clear that what actually was done was to recognize the church practice without any discussion of the difficult principles involved;[18] and even that silent and purposeful negligence did not pass uncriticized by the general assembly.[19] Yet, whatever the attitude of the state, it is certain that the church did not conceive itself, either by this act, or in the four years' struggle over subscription to its formularies, to have surrendered any part of its title to independence.[20]

[11] 1592, c. 116, Acts of Parliament of Scotland, III, 541, Calderwood, V, 162.
[12] 1593, c. 164.
[13] Acts of Parliament of Scotland, VII, 554.
[14] 1690, c. I.
[15] 1690, c. 5.
[16] McCrie, op. cit. p. 418.
[17] See his judgment in the Auchterarder case, Robertson's Report, II, 13.
[18] This is well brought out by Mr. Innes, op. cit., p. 45.
[19] Innes, op. cit., p. 46.
[20] Buchanan, I, 136, cf. Hetherington: *History of Church of Scotland*, p. 555; and for some strenuous criticism of Williams' attitude cf McCormick's *Life of Carstares*, pp. 43-4.

The next great epoch in the history of the Scottish Church was, naturally, its connection with the act of union in 1707. So securely was it deemed to be settled that the commissioners appointed in 1705 to treat with the English Parliament were expressly excluded from dealing with the Scottish Church;[21] and the act of security was deemed fundamental to the union. The act pledged the crown to the maintenance of the acts of 1690 and 1693 in terms as solemn as well may be;[22] and it may reasonably be argued that parliament conceived itself as then laying down something very like a fundamental and irrevocable law.[23] These may, indeed, have been no more than the recognition of a specially solemn occasion; for it is certainly difficult otherwise to understand why in 1712 parliament should have restored that lay patronage which the act of 1690 abolished.[24] The measure was carried through with indecent haste by the Jacobite party, and a spirit of revenge seems to have been its chief motive.[25] From this time until almost the close of the eighteenth century the general assembly protested against the measure; but parliament could not be moved.[26]

That such a course was a violation of the act of security is, of course, evident without argument; but the chief significance of the repeal lay rather in the future than in the past. "The British legislature," Macaulay told the house of commons,[27] "violated the articles of union, and made a change in the constitution of the Church of Scotland. From that change has flowed almost all the dissent now existing in Scotland. . . . . year after year the general assembly protested against the violation but in vain; and from the act of 1712 undoubtedly flowed every secession and schism that has taken place in the Church of Scotland." This is not the exaggeration of rhetoric but the

[21] McCrie, op. cit., p. 440.

[22] Mathieson, *Scotland and the Union*, p. 183; Innes, op. cit., p. 58.

[23] See Sir H. W. Moncrieff: *Churches and Creeds*, p. 19.

[24] 10, Anne, c. 12.

[25] Woodrow's *Correspondence*, I, 77, 84. Carstares' *State Papers*, p. 82; Burnet, VI, 106–107.

[26] Innes, op. cit., p. 60.

[27] *Speeches*, II, 180.

moderation of sober truth. For what the act of 1712 did, in the eyes at least of the church, was essentially to deal with a right fundamentally ecclesiastical in its nature and so to invade the church's own province. It became clear to the leaders of the church that so to be controlled was in fact to sacrifice the Divine Supremacy to which they laid claim. Christ could no longer be the Supreme Head of the Presbyterian Church of Scotland if that church allowed lay authority to contravene his commands. So that when it came to a choice between his headship and freedom on the one hand, and endowment on the other, they could not hesitate in their duty.

III

The disruption takes its immediate rise in an act of the general assembly in 1834.[28] There had been long signs in the church of a deep dissatisfaction with the establishment. It meant, so, at least, the voluntarists urged, enslavement to the civil power; and to the answer that the church had spiritual freedom the existence of civil patronage was everywhere deemed a sufficient response.[29] If voluntaryism was to be combated, some measure against intrusion must be taken; and it was upon the motion of Lord Moncrieff, himself a distinguished lawyer, that it was declared "a fundamental law of the church that no pastor shall be intruded on any congregation contrary to the will of the people."[30] Patronage, in fact, was not abolished; but, clearly, the need for congregational approval deprived it of its sting. It is important to note that not even among the opposition to the measure was any sort of objection urged against the competency of the general assembly to enact it.[31]

The challenge, however, was not long coming. Within six months of the decision of the general assembly, a vacancy occurred in the parish of Auchterarder in Perthshire. Lord Kinnoull, the patron, made his presentation to a Mr. Robert Young

[28] Buchanan, I, 280 ff.
[29] Id., I, 282.
[30] Id., I, 293. The motion was carried by 184 votes to 138, Id., I, p. 307.
[31] Id., I, p. 325.

and the congregation promptly rejected him by an overwhelming majority.[32] The presbytery then took steps to carry out the veto law.[33]

Lord Kinnoull was not long in deciding to contest his rights in the courts. Into the history of the struggle it is unnecessary to enter here in any detail; the merest outline of its progress must suffice.[34] The court of session refused to accept the defence of the presbytery that the rejection of a presentee for unfitness concerned only the ecclesiastical authorities, and laid it down that the church was dependent upon the state.[35] To this the general assembly replied almost immediately in a resolution which bound the church 'to assert and at all hazards defend' not only the freedom of the church from outside interference but also its determination to exact obedience to the veto law.[36] The consequence of this defiance was the Strathbogie cases. A presbytery, following the decision of the court of session, neglected the veto act of 1834 and was suspended by the general assembly. The court of session at once protected it;[37] and ordained that the vetoed minister should be received.[38] The presbytery of Auchterarder was condemned in damages to Lord Kinnoull and Mr. Robert Young;[39] a minority of the presbytery opposed to the veto act was declared to be capable of acting as the presbytery proper, and the majority was inhibited from any interference.[40] The rejected presentee was forced upon the presbytery;[41] and the condemnation of the presbytery by the general assembly for disregard of the veto act was put on one side.[42] Truly the

[32] Buchanan, I, 399.

[33] Id., I, 408.

[34] The reader will find full details in Buchanan and the cases noted below.

[35] The Auchterarder case, No. I, Robertson's report.

[36] Buchanan, II, 479.

[37] Id., II, 284.

[38] 1840, 2, Dunlop, 585.

[39] 1840, 3, Dunlop, 282.

[40] 1841, 3, Dunlop, 778. This is the second Auchterarder case.

[41] 1843, 5, Dunlop, 1010. This is the third Auchterarder case. I have not discussed the judgments of Brougham and Cottenham, L. C., in the House of Lords, as they add nothing to the Scottish opinions.

[42] 1840, 3, D., 283.

outcome of Knox's nationalism had been different from the conception of its founder.[43]

Attempted interference by statesmen proved of no avail.[44] Upon so fundamental an issue there could be no compromise, since it was her independence as a society that was at stake. Parliament would not surrender the position taken up by the court of session and the house of lords. "No government would recommend," Mr. Bruce told the house of commons,[45] "and no parliament would ever sanction the pretensions of the Church of Scotland, because if those claims were granted they would establish a spiritual tyranny worse and more intolerable than that of the Church of Rome from which they had been delivered." If it was less outspoken, the government, in the persons of Sir James Graham and Sir Robert Peel, was equally emphatic.[46] The assembly took the only step that lay in its power. It presented a formal claim of right in 1842[47] which set out the theory of its position. This refused, the adherents to that claim presented their protest in the following year,[48] and withdrew from the assembly to form the Free Church of Scotland.

IV

The party of which Dr. Chalmers was the distinguished leader had, whatever its deficiencies, the merit of maintaining a consistent and logical position. The church to them was a society itself no less perfect in form and constitution than that of the state. To the latter, indeed, they acknowledged deference in civil matters, "a submission," Chalmers himself said,[49] "which was unexcepted and entire." That to which they took so grave an objection was the claim laid down by the authorities of the state to an absolute jurisdiction over every department of civil-

[43] Cf. what Mr. Figgis has to say of this in his *Divine Right of Kings* (2d ed.) p. 193. I do not think he goes too far.

[44] Buchanan, II, 194.

[45] Hansard, 3d Series, Vol. 67, p. 442, March 8, 1843.

[46] Hansard, 3d Series, Vol. 67, pp. 382, 502. See also below.

[47] Buchanan, II, 663.

[48] Innes, op. cit., Appendix K.

[49] Hanna: *Life of Chalmers*, Vol. IV, p. 199.

ized life. They admitted, in brief, her sovereignty over her own domain; it was when she entered a field they held to be without her control that the challenge was flung down. "The free jurisdiction of the church in things spiritual, the Headship of Christ, the authority of his Bible as the great statute book not to be lorded over by any authority on earth, a deference to our own standards in all that is ecclesiastical . . . . these are our principles."[50] To them, therefore, the hand which was laid upon the church was an unhallowed hand; for when it thus struck at the foundation of her life it insulted the word of God.

The position of the Free Church is not different from that advocated by all who have accepted the principles of the Presbyterian system. It is a state of which the sovereignty is vested in the general assembly. It acknowledges no superior in the field with which it is concerned. That sovereignty is sanctioned by a right which even in high prerogative times would have seemed to its adherents a thousand times more sacred than its kingly analogue.[51] The sovereignty of the state over its own concerns is not denied; but its universality would never have been admitted. The distinction between the two societies must be maintained, otherwise the grossest absurdities would follow.[52] So Chalmers can make his striking claim. "In things ecclesiastical we decide all," he told a London audience in 1838,[53] "some of these things may be done wrong, but still they are our majorities which do it. They are not, they cannot, be forced upon us from without. We own no head of the church but the Lord Jesus Christ. Whatever is done ecclesiastically is done by our ministers as acting in his name and in perfect submission to his authority . . . . even the law of patronage, right or wrong, is in force not by the power of the state, but by the permission of the church, and with all its fancied omnipotence, has no other basis than that of our majorities to rest upon. It

[50] *Life of Chalmers*, loc. cit.

[51] Cf. Figgis: *Divine Right of Kings*, Ed. 2, p. 267.

[52] *Jus Divinum*, p. 42. Quoted in Figgis op. cit., p. 275.

[53] *Life of Chalmers*, Vol. IV, p. 54. Mr. Gladstone was present at and deeply impressed by these lectures. Morley (Pop. Ed.), I, 127.

should never be forgotten that in things ecclesiastical the highest power of our church is amenable to no higher power on earth for its decisions. It can exclude; it can deprive; it can depose at pleasure. External force might make an obnoxious individual the holder of a benefice; it could never make him a minister of the Church of Scotland. There is not one thing which the state can do to our independent and indestructible church but strip her of her temporalities. *Nec tamen consumebatur*—she would remain a church notwithstanding, as strong as ever in the props of her own moral and inherent greatness; and although shrivelled in all her dimensions by the moral injury inflicted on many thousands of her families, she would be at least as strong as ever in the reverence of her country's population. She was as much a church in her days of suffering, as in her days of outward security and triumph; when a wandering outcast with naught but the wandering breezes to play around her, and naught but the caves of the earth to shelter her, as when now admitted to the bowers of an establishment. The magistrate might withdraw his protection, and she cease to be an establishment any longer; but in all the high matters of sacred and spiritual jurisdiction she would be the same as before. With or without an establishment, she in these is the unfettered mistress of her doings. The king by himself or by his representative might be the spectator of our proceedings; but what Lord Chatham said of the poor man's house is true in all its parts of the church to which I have the honor to belong: 'In England every man's house is his castle; not that it is surrounded with walls and battlements; it may be a straw-built shed; every wind of heaven may whistle around it; every element of heaven may enter it; but the king cannot—the king dare not.'"

A more thorough-going rejection of the royal supremacy on the one hand, and the legal theory of parliamentary sovereignty on the other, could hardly be desired. It is clear that an invasion of the church's rights is not contemplated as possible. The provinces of church and state are so different that parliament could only interfere if the rights it touched originated with itself. Such a general theory of origin the adherents of Presbyterianism

strenuously repudiated. "Our right," Professor McGill told the general assembly of 1826,[54] "flows not from acts of parliament. I maintain the rights and powers of the Church of Scotland . . . . to determine the qualifications of its members; that their right in this matter did not originate with parliament; that parliament left this right untouched and entire to the courts of this church—nay, that of this right it is not in the power of parliament to deprive them. . . . . The religion of Scotland was previously embraced by the people on the authority of the word of God, before it was sanctioned by parliament." It is that the relation of church to state is, in this view, that of one power to another. Nor did Professor McGill stand alone in his opinion. When, in 1834, Lord Moncrieff considered the competency of the general assembly to enact the veto law, he repudiated the contention that any part of the ecclesiastical constitution except its establishment was derived from the civil power.[55] The establishment, indeed, Presbyterians regarded as no more than a fortunate accident.[56] They were even accustomed to the distinction between their own position and that of the Church of England. "The Scottish Establishment," said Chalmers in 1830,[57] "has one great advantage over that of England. It acknowledges no temporal head, and admits of no civil or parliamentary interference with its doctrine and discipline. The state helps to support it, but it has nothing to do with its ministrations." Nor did he shrink from the obvious conclusion to such a situation. "They may call it an *imperium in imperio*," he said thirteen years later,[58] "they may say we intrude upon the legitimate power of the civil courts or the civil law. It is no more an intrusion on the civil law than Christianity is an intrusion on the world." He resented the suggestion that the church was dependent upon the state. "We are not," he told the general

[54] Quoted in Moncrieff: *The Free Church Principle* (1883), p. 35.

[55] See Moncrieff: *The Free Church*, p. 37.

[56] Buchanan, I, 367.

[57] Life, III, 270.

[58] 16 March, 1843. Moncrieff, op. cit., p. iii. The remark is all the more significant since it was made on the eve of the Disruption.

assembly of 1842,[59] "eating the bread of the state. When the state took us into connection with itself, which it did at the time of the union, it found us eating our own bread, and they solemnly pledged themselves to the guarantees or the conditions, on which we should be permitted to eat their bread in all time coming." To the church, clearly, the act of security was the conclusion of an alliance into which church and state entered upon equal terms. It was an alliance, as Lord Balfour of Burleigh pointed out,[60] "with the state as a state in its corporate capacity," the union for certain specified purposes of one body with another. But it certainly was not conceived by the church that the acceptance of an establishment was the recognition of civil supremacy. Otherwise, assuredly, it could not have been argued, as in the resolution of the general assembly of 1838 that,[61] "her judicatories possess an exclusive jurisdiction founded on the word of God," which power ecclesiastical "flows immediately from God and the Mediator Jesus Christ."

Such, in essence, is the basis as well of the claim of right in 1842 as of the final protest in the following year. The one is a statement of the minimum the church can accept; the other is the explanation of how acceptance of that minimum has been denied. In ecclesiastical matters, the function of the civil courts was neither to adjudicate nor to inquire, but to assist and protect the liberties guaranteed to the church.[62] The maintenance of those liberties is essential to its existence, since without them it cannot remain a true church. Were it to admit any greater power in the civil courts, it would be virtually admitting the supremacy of the sovereign; but this is impossible since only Jesus Christ can be its head. Not only, so the claim holds, can the admission not be made, but the state itself has admitted the rightness of the church's argument.[63] Already in 1842 the

[59] Moncrieff, op. cit., p. 102.

[60] Hansard, 5th Series, Vol. 13, 12th Feb., 1913, p. 119.

[61] Innes, op. cit., p. 73.

[62] Buchanan, II, 633.

[63] Buchanan, II, 634. 'The above-mentioned doctrine and fundamental principle. . . . . have been by diverse and repeated Acts of Parliament, recognized, ratified, and confirmed.'

claim foreshadows the willingness of the church to suffer the loss of her temporalities rather than admit the legality of the courts' aggression.[64] The protest of the following year does no more than draw the obvious conclusion from this claim. An inherent superiority of the civil courts, an inhibition of the ordinances of the general assembly, the suspension or reduction of its censures, the determination of its membership, the supersession of a Presbyterian majority, all of these decisions of the court of session, "inconsistent with the freedom essential to the right constitution of a Church of Christ, and incompatible with the government which He, as the Head of his Church, hath therein appointed distinct from the civil magistrate"[65] must be repudiated. So that rightly to maintain their faith they must withdraw from a corrupted church that they may reject "interference with conscience, the dishonour done to Christ's crown, and the rejection of His sole and supreme authority as king in His Church."[66]

It is worthy of remark that this is the position taken up by counsel for the church in the Auchterarder case. "If the call be shown to be a part of the law of the church," Mr. Rutherford argued before the court of session,[67] "it is necessarily a part of the law of the land—because the law of the church is recognized by the state; and, if the veto act, in regulating that call, has not exceeded the limits within which the legislature of the church is circumscribed, it is impossible in a civil court to deny the lawfulness of its enactments." From the standpoint of the church it is clear that this is theoretically unassailable. If the church has the right to regulate her own concerns she must have the right to regulate appointment of ministers. If, as a Rutherford of two centuries earlier argued,[68] "the Church be a perfect visible society, house, city, and kingdom, Jesus Christ in esse and operari; then the Magistrate, when he cometh to be Christian,

[64] Buchanan, II, 647.
[65] Buchanan, II, 649.
[66] Buchanan, II, 650.
[67] Robertson's Report, I, 356.
[68] Quoted in Figgis: *Divine Right of Kings*, p. 278.

to help and nourish the Church, as a father he cannot take away and pull the keys out of the hands of the stewards." The state admitted her law to be its law in the act of security. The only question, therefore, that called for decision was whether the principle of non-intrusion was ecclesiastical or not. If it was, then clearly it was not ultra vires the general assembly to enact it, and, unless the act of security were to be rendered nugatory, the civil court must uphold the church's plea. In that event, to remedy the church's wrongs does not lie with the civil court. "The question is," as Mr. Rutherford argued,[69] "whether an abuse by the Church of her legislative powers will justify the interposition of this court. It has been maintained on the other side that it will in all cases. I maintain the reverse of the proposition, that however competent it may be for the State, by the power of the legislature, to withdraw their recognition of a jurisdiction which is no longer exercised so as to warrant the continuance of the confidence originally imposed, it is not within your province." "In matters ecclesiastical," he said again,[70] "even if the Church acts unjustly, illegally, ultra vires, still the remedy does not lie with this court—nor can your lordships give redress by controlling the exercise of ecclesiastical functions when in the course of completing the pastoral relation." Mr. Bell, his junior counsel even went so far as to urge the court not to hazard its dignity "by pronouncing a judgment you cannot enforce."[71]

It is to be observed that the Presbyterian theory is not the assertion of a unique supremacy. It did not claim a sovereignty superior to that of the state. Rather, indeed, did it take especial care to explain the precise limitations of its demand. "He was ready to admit," Sir George Clerk told the House of Commons in 1842,[72] "the Church of Scotland is ready to admit, that in all civil matters connected with that church the legislature is supreme. The Church of Scotland did not refuse to render unto

[69] Robertson, I, 382.
[70] Op. Cit., I, 383.
[71] Op. Cit., I, 124.
[72] Hansard, 3d Series, Vol. 35, pp. 575–81.

Caesar the things that were Caesar's, but it would not allow of an interference with its spiritual and ecclesiastical rights." Mr. Buchanan, the historian of the Disruption, and one of its leading figures, explained at length the difference between the two organizations. "It is," he wrote of the church,[73] "no rival power, to that of the state—its field is conscience; that of the state is person and property. The one deals with spiritual, the other with temporal things, and there is therefore not only no need, but no possibility of collision between the two, unless the one intrude into the other's domain." Mr. Fox Maule, who was the authorised spokesman of the general assembly in parliament,[74] went so far as to say that even a claim to mark out the boundaries between the civil and the ecclesiastical provinces he would repudiate "because it was fraught with danger to the religious as well as the civil liberties of the country."[75] "He was aware," he remarked,[76] "that it was difficult at all times to reconcile conflicting jurisdictions, but for one he would never admit that when two courts, equal by the law and by the constitution, independent of each other, came into conflict upon matters however trifling or however important, so that one assumed to itself the right to say that the other was wrong, there was no means of settling the dispute. As he read the constitution, it became Parliament, which was the supreme power, to interfere and decide between them."[77] The separation of the two powers is, finally, distinctly set forth by the claim of right in 1842. "And whereas," it states,[78] "this jurisdiction and government, since it regards only spiritual condition, rights, and privileges, doth not interfere with the jurisdiction of secular tribunals, whose determination as to all temporalities conferred by the state upon the church, and as to all civil consequences attached

[73] Buchanan, II, 25.

[74] Buchanan, II, 572.

[75] Hansard, 3d Series, Vol. 67, p. 356, March 7, 1843.

[76] Ibid., p. 367.

[77] Yet a doubt must be permitted whether the Free Church party would have accepted a hostile decision even of Parliament. Chalmers, certainly, had no such doubts of his position as to think of mediation.

[78] Buchanan, II, 634.

by the law to the decisions of church courts in matters spiritual, this church hath ever admitted, and doth admit, to be exclusive and ultimate as she hath ever given and inculcated implicit obedience thereto." Than this no statement could be well more plain.

Mr. Figgis, indeed, has doubts of this conclusion. "Presbyterianism," he has written,[79] "as exhibited in Geneva or Scotland, veritably claims, as did the Papacy, to control the state in the interests of an ecclesiastical corporation." Certainly this fairly represents the attitude of Knox[80] and it is the basis of the very able attack on that system by Leslie and Bramhall in the seventeenth century.[81] Yet the vital conception of the two kingdoms, separate and distinct, was put forward in the first epoch of Scottish Presbyterian history by Andrew Melville;[82] and it is safe to say that the attempt thus to define the limits of authorities basically conceived as distinct is the special contribution of Presbyterianism to the theory of political freedom. The difference is of importance since it constitutes the point of divergence between Ultramontanism and the Scottish system. The one teaches the supremacy of the ecclesiastical power, the other its coördination with the civil. Cardinal Manning, indeed, in the course of those controversies over the definition of papal infallibility in which he played so striking a part,[83] went so far as to claim that every Christian church makes the same demand of the church as the communion to which he belonged, and urged that the theories of Presbyterian writers are in substance papalist.[84] But Mr. Innes, in a convincing essay, was able most conclusively to dispose of this claim.[85] A theory of mutual inde-

[79] *Divine Right of Kings*, p. 186. But in the preface to his second edition Mr. Figgis considerably modifies his conclusion.

[80] Cf. Works, IV, 539.

[81] Cf. Leslie: *The New Association*, and Bramhall: *A Warning to the Church of England.*

[82] As Mr. Figgis notes, *Divine Right*, p. 286.

[83] See his *Caesarism and Ultramontanism* (1874).

[84] See his article in the *Contemporary Review* for April, 1874.

[85] See his article "Ultramontanism and the Free Kirk" in the *Contemporary Review* for June, 1874.

pendence is as far as possible removed from papalism.[86] The conscience of the state and that of the church are kept as separate in Presbyterian theory as they have been combined in that of Hildebrand and his successors. Cardinal Manning, indeed, was, probably unconsciously, a fervent upholder of the Austinian theory of sovereignty; and he found his sovereign in the will of the Universal Church as expressed by its pontiff. But not even the boldest opponent of Presbyterianism can accuse it, outside its own communion,[87] of an Austinian bias. It is the antithesis of what Mr. Innes well terms the "centralised infallibility" of the Roman system.[88]

Not, indeed that contemporaries are wrong who judged that, equally in 1843 as in 1870, the implicitly Austinian doctrine of Erastianism was at stake. "We cannot," said the Catholic *Tablet*,[89] "avoid seeing that on this question they have taken their stand on the only principles which as Catholics, we can respect . . . . their cry is down with Erastianism and so is ours." "When the civil courts," said the *North British Review*,[90] "assumed the power of determining the whole matter . . . . the controversy was forced to assume its true character as in reality involving the very essence of the spiritual independence of the church." And Macaulay, who fought Edinburgh in the election of 1841, regretted that he could not teach the anti-Erastians some straightforward Whig doctrine.[91]

V

Not less firm than that of Chalmers and his party was the stand taken by the opponents of the Scottish Church. It is,

[86] Though the Encyclical: *Immortale Dei* of 1885 in Denziger's *Enchiridion*, pp. 501–508, and Newman's *Letter to the Duke of Norfolk* are, as I hope to show in a later paper, very akin to the Presbyterian theory; and the Jesuits of the seventeenth century worked out a similar claim.

[87] I say outside, because the General Assembly claims a control over doctrine and discipline which is very like that of an Austinian sovereign.

[88] *Contemporary Review*, Vol. 24, p. 267.

[89] Quoted in *Fraser's Magazine* for July, 1843.

[90] *North British Review*, 1849, p. 447.

[91] *Trevelyan's Life* (Nelson's Edition), II, 57.

indeed, possible to find two, and perhaps three, different theories of the relations between church and state in the various judicial opinions upon the Auchterarder and its connected cases; but all of them, with a single exception, are traceable to one basic principle.[92] The judges found a conflict between two societies—the church and the state. Which, they asked themselves, was to prevail? Was the state to be deemed inferior to the church, since the latter was grounded upon divine authority? "Such an argument" said Lord Mackenzie,[93] "can never be listened to here." In general, the attitude of the court seemed to imply an acceptance of the argument used by the dean of faculty in his speech against the presbytery of Auchterarder. "What rights," he asked[94] "or claims had any religious persuasion against the state before its establishment . . . . when he (Mr. Whigham) described the establishment of the National Church as a compact . . . . he took too favourable a view of the matter for the defenders. For any such compact implies the existence of two independent bodies, with previous independent authority and rights. But what rights had the Church of Scotland before its establishment to assert or surrender or concede?" He put forward, in fact, the concession theory of corporate personality.[95] There were no rights save those which the state chose to confer; and the Church of Scotland was merely a tolerated association until the act of security legalised its existence. This seems to have been the judicial attitude. Lord Gillies emphatically denied the possibility of looking upon the act of security as a compact. "I observe," he said,[96] "that it is an improper term. There can be no compact, properly speaking, between the legislature and any other body in the state. Parliament, the king, and the three estates of the realm are omnipotent, and incapable of making a compact because they cannot be bound by it." Even Lord Cockburn, in his dissenting judgment, based his decision rather

[92] That of Lord Medwyn. See below.

[93] Middleton v. Anderson, 4 D., 1010.

[94] Robertson, I, 185.

[95] See my paper on the "Personality of Associations" in the *Harvard L. Review*, for February, 1916.

[96] Robertson II, 32.

on the supposed historic basis of the veto law than on the co-equality of church and state.[97] The lord president went even further in his unqualified approval of Erastian principles. The church, he held, "has no liberties which are acknowledged *suo jure*, or by any inherent or divine right, but as given and granted by the king or any of his predecessors. . . . . The parliament is the temporal head of the church, from whose acts, and from whose acts alone, it exists as the national church, and from which alone it derives all its powers."[98] He would not for a moment admit that a conflict of jurisdiction between church and state might occur; for "an establishment can never possess an independent jurisdiction which can give rise to a conflict . . . . . it is wholly the creation of statute."[99] The general assembly has no powers, but only privileges.[100] It could not be a supreme legislature, for there could only be one such body in a state. Any other situation "would be irreconcilable with the existence of any judicial power in the country."[101]

To Lord Meadowbank the Church of Scotland seemed comparable to a corporation to which as an "inferior and subordinate department" of itself the state had given the right to make by-laws. But its power was limited; it was a statutory creation which could exercise only the powers of its founding act. "The civil magistrate," he said,[102] "must have the authority to interpose the arm of the law against what then becomes an act of usurpation on the part of ecclesiastical power. Were it otherwise anarchy, confusion, and disaster must inevitably follow." So, too, did Lord Mackenzie urge the final supremacy of the legislature, though, very significantly, he admitted that a churchman might think differently. "The subjection of the assembly, to the state," he said,[103] "is not owing to any contract between

[97] Robertson II, 359.

[98] Robertson II, pp. 2, 4, 5, 10.

[99] Cuninghame v. Lainshawe, Clarke's Report of the Stewarton case, 1843, p. 53.

[100] Robertson, II, 23.

[101] Loc. cit.

[102] Robertson, II, 88.

[103] Robertson, II, 121.

church and state, but simply to the supreme power of the legislature, which every subject of this country must obey. . . . . I repeat therefore that when the question is raised whether anything is illegal as being contrary to act of parliament, it is utterly vain to cite any act of the assembly as supporting it in any degree."

Here, of a certainty, was the material for ecclesiastical tragedy. The difficulty felt by the majority of the court is one that lies at the root of all discussions on sovereignty. Anarchy, so the lawyer conceives, must follow unless it be clearly laid down at the outset that beyond the decision of the courts as interpreted from acts of parliament there can be no question. It is not a problem of spheres of respective jurisdiction. The legislature of the state, the king in parliament, exercises an unlimited power.[104] If the legislature be sovereign, the comparison between its powers and those of any other body becomes impossible since it follows from the premise that what parliament has ordained no other organisation can set aside. Clearly, therefore, to the jurist, the claim of the Presbyterian Church to be a *societas perfecta* was *ab initio* void; for that claim would involve the possession of a sovereignty which theory will admit to none save king in parliament.[105] That was what the lord president meant by his assertion that the church possessed not rights but privileges; for rights it could hold only by virtue of an unique supremacy, whereas privilege emphasized the essential inferiority of its position. The courts, in fact, were denying the doctrine of the two kingdoms. Where the Presbyterian saw two states within society one of which happened to be his church, the lawyer saw no distinction between society and the state and held the church to be but an arm of the latter. By grace of parliament the church might legislate on matters purely ecclesiastical, and a certain comity would give respect to its decisions. But

[104] This is of course the simple doctrine of Parliamentary sovereignty discussed by Professor Dicey in the first chapter of his *Law of the Constitution*. It is very effectively criticised in the last chapter of Professor McIlwain's *High Court of Parliament*.

[105] I have tried to work out the implications of this doctrine in a paper in the *Journal of Philosophy* on the 'Sovereignty of the State' for February, 1916.

the power was of grace, and the respect was merely courtesy; for the definition of ecclesiastical matters in no way lay with the church's jurisdiction.[106] Clearly between such an attitude as this and the theories of Dr. Chalmers there could be no compromise. The premises of the one denied the axioms of the other. The church dare not admit what Lord Fullerton called "the supposed infallibility of the court of session"[107] without destroying its own independence. Nor could there be grounds for such a course. "No Church," the pious Buchanan told the general assembly of 1838,[108] "could ever be justified in obeying another master than Christ." It was useless to contend that if state-endowed the church must be unfree, for it was on the basis of freedom that endowment had been accepted. The demands of the court of session would make the oath of ministerial obedience a mockery.[109] So was the issue joined.

VI

The attitude of the ministry was in an important way different from that of the court of session. It was indeed, very akin to that of the moderate party in the church itself, of which the able Dr. Cook was the leader.[110] To him the church was not the creature of the state. It was independent. There were the two provinces, civil and ecclesiastical; but where a difference arose between the powers the ultimate decision must rest with the courts of law. "When any law" he urged in 1838,[111] "is declared by the competent (civil) authorities to affect civil right the Church cannot set aside such a right . . . . so to do would be to declare ourselves superior to the law of the land." To him the claim of the church seemed little less than an attempt at a new popery, and he refused from the outset to identify it

[106] Robertson, II, 37, Per Lord Gillies.

[107] Buchanan, I, 465.

[108] Buchanan, I, 472.

[109] Buchanan, I, 478.

[110] The reader of Buchanan's work should be warned that the writer's prejudices lead him consistently to misrepresent Dr. Cook's attitude.

[111] Buchanan, I, 481, II, 24.

with liberty of conscience.[112] The acceptance of an establishment made, in his view, a vital difference. It meant that the church accepted the secular definition of its powers, and that resistance to such definition was tantamount to rebellion.[113] He did not deny the headship of Christ; but he did believe "that there may be ground for diversity of opinion as to what is comprehended under that Headship in all cases," and the decision, in an ambiguous case, where conflict arose between church and state, seemed to him to belong to the state.[114] He was impressed, as the court of session was impressed, with the impossibility of arriving at a decision if the coördination of powers be admitted, and it was clearly upon their grounds that he urged the church to give way.

It was this difference between established and voluntary churches which finally weighed with Sir Robert Peel. The right of the Roman Catholics, or the Protestant Dissenters absolutely to control those who chose to submit to their jurisdiction was unquestionable. The state would attempt no interference with it. "But if," he pointed out,[115] "a church chooses to have the advantage of an establishment, and to hold those privileges which the law confers—that church, whether it be the Church of Rome, or the Church of England or the Presbyterian Church of Scotland, must conform to the law." To him the position taken up by the church was inadmissible since it involved the rights of determining the limits of its jurisdiction. That could be done only by "the tribunal appointed by parliament, which is the house of lords." Nor did Sir James Graham, upon whom the defence of the government's attitude mainly rested, offer any greater consolation to the church. "They declare," he told the house of commons,[116] that any act of Parliament passed without the consent of the church and nation shall be void and of none

[112] Buchanan, II, 24.

[113] Buchanan, II, 261.

[114] Buchanan, II, 516. Compare with this Manning's view that the right to fix the limits of its own power was essentially the possession of the Church, *Vatican Decrees*, 1875, p. 54.

[115] Hansard, 3d Ser., Vol. 67, p. 502.

[116] Ib., March 7, 1843, pp. 382 ff.

effect. . . . . I think that to such a claim . . . . no concession should be made." Since the sphere of jurisdiction between church and state had not been defined, to admit the Presbyterian claim would be to admit "the caprice of a body independent of law," with the result that no dispute would ever admit of settlement. The church was established by the state, and was spiritually bound by the terms of its establishment. If it was not the creature of the state, "still the state employs the church on certain terms as the religious instructor of the people of Scotland," and the employé was virtually demanding the right to lay down the conditions of its employment. That demand could not be admitted; for those conditions were embodied in statutes of which the interpretation must rest with the supreme civil tribunal. The church was definitely inferior, as a source of jurisdiction, to the house of lords. "These pretensions," he said,[117] "of the Church of Scotland, as they now stand, to coördinate jurisdiction, and the demand that the government should by law recognise the right of the church to determine in doubtful cases what is spiritual and what is civil, and thereby to adjudicate on matters involving rights of property, appears to me to rest on expectations and views so unjust and unreasonable, that the sooner they are extinguished the better."

Some points of importance deserve to be noted in this connection. The church, certainly, did not claim the right to decide the nature of its jurisdiction.[118] What it in fact claimed was the essentially historic grant of a right to control its own affairs. To itself, that right, admitted in 1690, and doubly confirmed in 1705, was wantonly violated in 1712; and the church was compelled to regard that act as a nullification of the fundamental law made but seven years previously. The real head and centre of the whole problem was thus the theory of parliamentary sovereignty. The church could not conceive an inherent right in parliament to disregard an obligation assumed with such solemnity. Nor, equally, was it within the competence of the courts to disregard an act which the church, from its stand-

[117] Hansard, March 7, 1843, pp. 382 ff.

[118] See above, the references to notes 60 and 61.

point rightly, condemned. For the courts there could not be such a thing as a fundamental law. They could not, with the act of 1712 before them, announce that lay patronage was an ecclesiastical question, and therefore within the competence of the general assembly, for so to do would be not only to question the sovereignty of parliament, but also, implicitly, to admit that the general assembly was a coördinate legislature with parliament. A new theory of the state was required before they would admit so startling a proposition.

A second point is of interest. In the judgment of Lord Medwyn there is a theory of church and state which, impliedly at least, was also the theory of Sir Robert Peel.[119] A voluntary church possesses the authority and rights claimed by the Church of Scotland; but when the alliance with the state was made the rights must be considered as surrendered. All that the church could do is to break the agreement should it feel dissatisfied with the results of the alliance. But, as a fact, it was not law in 1838, and it is not now law, that a voluntary association is independent of the state in the degree claimed by the Scottish church. If our antagonism to such societies has not found such open expression as in France,[120]—if, in brief we have no *loi le Chapelier*,[121] —that is rather because by implication the power of control is already at hand. For, in the view of the state, immediately a church receives property upon condition of a trust, the state is the interpreter of that trust, and will interfere even with an unestablished church to secure its enforcement.[122] Lord Medwyn and Sir Robert Peel were claiming for the state a sovereignty far less than that of legal doctrine.[123] For if the church once take any step which involves property relations, it brings itself

[119] Cf. Innes, p. 74 and the interesting note on that page.

[120] Cf. Combes: *Une Campagne Laique*, p. 20—, the citation from the Duc de Broglie.

[121] And Article 29 of the Code Penale forbids associations of more than twenty persons even for social purposes. Seilhac: *Syndicats Ouvriers*, p. 64.

[122] See my paper on "The strict interpretation of Ecclesiastical trusts" in the *Canadian Law Times* for March, 1916.

[123] Sir F. Pollock has protested (10 L. Q. R. 99) that English lawyers do not now accept this view; it is certainly that of the courts.

within the scope of the civil law; and its own inherent rights cannot be a ground of contest against the supremacy of parliament.[124] Allegiance to the law is absolute, since the law does not admit of degrees of acceptance. What Lord-Justice Clerk Hope said as to the effect of statute remains as true in relation to a voluntary body as in relation to the established church of which he spoke. "Their refusal to perform the ecclesiastical duty is a violation of a statute, therefore a civil wrong to the party injured, therefore cognisable by courts of law, therefore a wrong for which the ecclesiastical persons are amenable to law, because there is no exemption for them from the ordinary tribunals of this country if they do not obey the duties laid upon them by statute."[125] Clearly from this *impasse* disruption was the one outlet.

VII

One last judicial theory deserves some consideration. In his brilliant dissenting judgment, Lord Jeffrey took a ground very different from that of his brethren.[126] His whole conception of the problem was based on his belief that once Lord Kinnoull had presented Mr. Young to the living of Auchterarder, the proceedings became ecclesiastical in nature; and for the court of session to force Mr. Young upon the presbytery was to "intrude in the most flagrant manner almost that can be imagined, on their sacred and peculiar province. It would be but a little greater profanation if we were asked to order a church court to admit a party to the communion table,[127] whom they had repelled from it on religious grounds, because he had satisfied us that he was prejudiced in his exercise of his civil rights by the exclusion."[128] Lord Jeffrey, in fact, argues that there, is a method of discovering the right province of any action of which the exact

[124] Robertson, II, 121.

[125] Kinnoull v. Ferguson (1843), 5, D. 1010, Innes, p. 52.

[126] Robertson, II, 380 ff.

[127] But this has now been done in the Church of England. See Bannister v. Thompson (1908), p. 362, and on the rule for prohibition R. v. Dibdin (1912), A. C. 533.

[128] Robertson, II, 372.

nature is uncertain. The result of the action ought to be considered, and if that result is fundamentally ecclesiastical rather than civil, the courts ought to treat the case as the concern of an independent and coördinate jurisdiction—the church court. He pointed out that practically every action has in some sort a civil result. "When the general assembly," he said,[129] "deposes a clergyman for heresy or gross immorality, his civil interests and those of his family suffer to a pitiable extent. But is the act of deposition the less an ecclesiastical proceeding on that account?" He adopts, it is clear, a pragmatic test of the ownership of debatable ground. The limits of jurisdiction are not, as in Chalmers's view, so clearly defined at the outset as to make collision impossible. Rather is its possibility admitted and frankly faced. What Jeffrey then suggested as the true course was to balance the amount of civil loss Lord Kinnoull would suffer against the ecclesiastical loss of the church; if that were done, he urged that the church would be seen to have suffered more, and he therefore gave his decision in its favour. The argument is a valuable contribution to that pragmatic theory of law of which Professor Pound has emphasized the desirability.[130]

VIII

It was a dictum of Lord Acton that from the study of political theory above all things we derive a conviction of the essential continuity of history. Assuredly he who sets out to narrate the comparative history of the ideas which pervade the Disruption of 1843 would find himself studying the political controversies of half a thousand years. For it is difficult to find more fundamental problems than the questions the Disruption raised; nor has there been novelty in the replies that then were made. The theory of those who opposed the Free Church has its roots far back in the Reformation. It can be paralleled from Luther and Whitgift, just as the theory of Chalmers and his adherents is historically connected with the principles with which Barclay confronted

[129] Robertson, II, 362.
[130] 27 Harv. L. Rev., 735.

Ultramontanism, and the Jesuits a civil power that aimed at supremacy.[131]

The Presbyterians of 1843 were fighting the notion of a unitary state. To them it seemed obvious that the society to which they belonged was no mere cog-wheel in the machinery of the state, destined only to work in harmony with its motions. They felt the strength of a personality which, as they urged, was complete and self-sufficient, just as the medieval state asserted its right to independence when it was strong enough not merely to resent, but even to repudiate, the tutelage of the ecclesiastical power. They were fighting a state which had taken over bodily the principles and ideals of the medieval theocracy. They urged the essential federalism of society, the impossibility of confiding sovereignty to any one of its constituent parts, just as Bellarmine had done in the seventeenth century, and Tarquini in later days.[132] If there seems something of irony in such a union, the Miltonic identification of priest and presbyter may well stand voucher for it.[133] The problem which Presbyterian and Jesuit confronted was, after all, at bottom fundamentally identical. We must not then marvel at the similarity of the response each made.

Nor was the attitude of the court of session less deeply rooted in the past. Historically it goes back to that passionate Erastianism of Luther which was the only answer he could make to the unswerving Austinianism of Rome.[134] If, in the nineteenth century, the divinity he claimed for civil society has disappeared, the worship of a supposed logical necessity in unified governance—itself a medieval thing[135]—has more than taken its place. Lord President Hope seems to have been as horrified at the implicit

[131] Cf. Figgis: *From Gerson to Grotius*, p. 63.

[132] Figgis, op. cit., p. 184. See Tarquini: *Institutiones, passim.*

[133] It is a matter of great interest that the Presbyterians, like the Jesuits, should have had two quite distinct theories of the State, according to their political circumstances. One has to distinguish sharply in the seventeenth century between men like Cartwright with a definite theory of the two kingdoms, and that of the Presbyterians in the Parliaments of Charles I. The latter was definitely Erastian and it was against that theory that Milton intelligibly inveighed. Cf. generally, Figgis: *Divine Right of Kings*, Chapter IX.

[134] Works (Jena Ed.), II., 339.

[135] Cf. Maitland: *Gierke*, p. 102.

federalism of the Free Church as was good Archbishop Whitgift at the federalism of Cartwright.[136] He does not understand the notion of the two kingdoms, and so falls back on the stern logic of parliamentary sovereignty. The state, so it is conceived, cannot admit limitations to its power; for from such limitation anarchy is eventually the product. Therefore the societies within the state can exist only on sufferance; and if the England of 1843 did not set an example to the France of sixty years later, it was not from want of theorising about the rights of congregations.[137] It is one of the curiosities of political thought that just as in the medieval church insistence on the unity of allegiance should ultimately have led to the reformation, yet its consequence should have been the creation of an organisation demanding no smaller rights than its predecessor. The state, like the church of past time, is set over against the individual, and stout denial is given to the reality of other human fellowship.

Between two such antithetic ideals compromise was impossible. The assertion of the one involved the rejection of the other. If the state, theoretically, was in the event victorious, practically it suffered a moral defeat. And it may be suggested that its virtual admission in 1874 that the church was right is sufficient evidence that the earlier resistance of the court of session to her claims was mistaken.[138] If it was mistaken, the source of error is obvious. A state that demands the admission that its conscience is supreme goes beyond the limits of righteous claim. It will attain a theoretic unity only by the expulsion of those who have the spirit to doubt its rectitude. It seems hardly worth while to discuss so inadequate an outlook. The division of power may connote a pluralistic world. It may throw to the winds that omnicompetent state for which Hegel in Germany and Austin in England have long and firmly stood the sponsors. Yet insofar as that destruction is achieved it will the more firmly unite itself to reality.

[136] Strype: *Life of Whitgift*, II, 22 ff.

[137] Mr. Figgis, both in his *From Gerson to Grotius* and his *Churches in the Modern State*, attacks very bitterly the Austinianism of M. Combes in his *Une Campagne Laique;* but I do not feel that he understands either the provocation to which the republic was subjected, or the trespasses of French Ultramontanism.

[138] Innes, p. 113.